

OCT - 7 1992

SOUTHERN DISTRICT OF INDIANA
JOHN A. O'NEAL
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CAUSE NO. NA 92-4-CR
v.)	
)	
CHARLES E. SWEENEY, JR.)	
a/k/a TYRONE EUGENE WASHINGTON,)	
)	
Defendant.)	

AMENDED PLEA AGREEMENT

The United States of America, by counsel, Deborah J. Daniels, United States Attorney for the Southern District of Indiana, and Kathleen M. Sweeney and Victoria Ursulskis, Assistant United States Attorneys, and the Defendant, Charles Edward Sweeney, Jr., in person and through his attorneys, Michael McDaniel and Edwin Sedwick, inform the Court that a Plea Agreement pursuant to Fed.R.Crim.P. 11(e)(1)(A) and (B) has been reached. The following are its terms and conditions:

1. The defendant, Charles E. Sweeney, Jr., has entered a plea of guilty to Count 5 of the Indictment, which charges the defendant with using a bomb in connection with a crime of violence in violation of Title 18, United States Code, Section 924(c).

2. The United States of America recommends that the Court allow the defendant to withdraw his plea of guilty to Count 4 as previously entered on June 26, 1992.

3. Defendant agrees to cooperate fully with the United States of America. This cooperation includes, but is not limited to, complete, total and truthful debriefing concerning defendant's involvement and that of others in the violation of laws related to controlled substances or any other criminal activity of which defendant has knowledge. The cooperation is not limited by reference to any charges pending against defendant. Defendant agrees to testify as required by the United States of America before grand juries and in judicial proceedings, including trials, concerning matters developed as a result of defendant's cooperation.

4. The United States of America agrees not to charge Defendant with any criminal violations disclosed during the course of debriefings except in the following three instances:

A. Prosecution of the offense described in paragraph 1 above;

B. False testimony before any grand jury, judicial tribunal, or at a trial, which occurrence would permit prosecution for false statements before a grand jury or perjury, as applicable; or

C. Any action, direct or indirect, that caused physical injury to another individual.

5. At the discretion of the United States of America, defendant agrees to submit to polygraph examinations by an examiner of the United States' choice as to any and all matters encompassed by this Plea Agreement. Should the examiner make a finding of deception during the course of the polygraph, such result may be deemed a breach of this Plea Agreement by the Defendant.

6. The United States of America may withdraw from the Plea Agreement at its election should the defendant breach any term or requirement, including the failure to provide complete, total and truthful information. The defendant will be subject to prosecution for any criminal violation and without the United States' being limited to the exceptions noted in paragraph 3.

7. In exchange for defendant's plea, and his full cooperation, at the time of sentencing, the United States of America agrees to dismiss Counts 1, 2, 3, 4, 6, and 7 of the Indictment as to this defendant.

8. In exchange for defendant's plea, and his full cooperation, at the time of sentencing, the United States of America agrees to inform the Court of the quantity and quality of the defendant's cooperation and to file a motion pursuant to U.S.S.G. §5K1.1, p.s., and Title 18, United States Code, Section 3553(e). Based upon the cooperation to date and, assuming said cooperation continues, the United States of America will request

a three (3) level reduction. The parties recognize this motion permits the Court to impose a sentence below the level established by statute and the sentencing guidelines developed under the Sentencing Reform Act of 1984.

9. The United States of America has agreed to specifically reserve the right to petition the Court, pursuant to Rule 35 of the Federal Rules of Criminal Procedure, to modify the final sentence imposed in this case if, in the sole discretion of the United States Attorney's Office for the Southern District of Indiana, defendant's cooperation constitutes substantial assistance in the investigation or prosecution of other individuals who have committed an offense, said individuals and offenses including those for which defendant is presently charged in the Southern District of Indiana. In no event will the United States of America's modification request exceed a reduction of one additional level below the offense level determined by the Court at the time of sentencing. Upon the filing of a Motion by the United States of America pursuant to Rule 35, the defendant will be afforded an opportunity to respond and make such recommendations as to the reduction of the sentence as the defendant deems appropriate; the Court is free to make such modifications as the Court deems appropriate. The United States of America has advised defendant and his attorneys that the United States Attorney's Office for the Southern District of Indiana would consider the following factors in determining

whether or not the final sentence imposed in this case should, at some point, be reduced:

(a) A written statement from any other United States Attorney's Office or State Prosecutor's Office advising the United States Attorney's Office for the Southern District of Indiana that defendant has provided, to that jurisdiction, full, complete, truthful and substantial cooperation, which has been utilized in that jurisdiction for the purpose of obtaining an indictment or by the Government during the course of a trial;

(b) Any information provided by defendant which enables a law enforcement authority to gather admissible evidence about any criminal or criminal organization which is either presently operating or presently unknown to any law enforcement organization in the area in which the criminal or criminal organization is presently operating;

(c) Any information provided by defendant which has been utilized in the Southern District of Indiana for the purposed of obtaining an indictment.

10. The parties state there is no agreement as to Defendant's criminal history, and that this determination will be made after investigation and review by the United States Probation Office and the Court.

11. The parties agree that the imposition of a fine is left to the discretion of the Court, and that a fine may be imposed by the Court as part of the defendant's sentence. The parties reserve the right to present evidence and argument concerning a fine.

12. The defendant agrees to remit to the Court at the time of sentencing a certified check or money order in the amount of \$50.00 payable to "Clerk, United States District Court", which amount represents the mandatory special assessment required by 18 U.S.C. §3013.

13. Both parties acknowledge and understand that the Court ultimately determines the sentence to be imposed and that the recommendations within this Plea Agreement are not binding on the Court.

14. In addition to those facts constituting the crime alleged in Count 5, the parties agree and stipulate to the following facts:

On December 19, 1991,

(a) The defendant knowingly possessed methamphetamine with intent to distribute in violation of Title 21, United States Code, Section 841(a)(1).

(b) The defendant received at his home by way of the United States mail approximately 23 grams of methamphetamine.

(c) Found in the defendant's residence were items commonly associated with distributors of drugs, including numerous jewelry bags, triple beam scales, and cutting tray.

(d) The defendant carried and armed himself with a SPAS 12, 12 gauge shotgun in response to an attempted entry by the Clark County Police Department, who were executing a search warrant for the drugs in the residence.

15. Pursuant to Section 6B1.4 of the United States Sentencing Guidelines, the parties hereby stipulate to the facts relevant to sentencing and the applicable guidelines range:

A. The defendant's use of a firearm during and in relation to a crime of violence as indicated in paragraph 1 constitutes an offense against the United States under Title 18, United States Code, Section 924(c). The applicable sentencing guideline for this offense in U.S.S.G. § 2K2.4(a), which establishes a mandatory, nonsuspendible sentence of 30 years, or 360 months, by reference to Title 18, United States Code, Section 924(c).

B. The parties agree that, pursuant to U.S.S.G. § 3E1.1, the defendant should receive a two-level reduction for acceptance of responsibility because he has truthfully admitted his role in the offense charged.

C. The parties acknowledge that, pursuant to U.S.S.G. § 5K1.1, p.s., and Title 18, United States Code, Section 3553 (e), a downward departure from the mandatory thirty-year sentence

is available upon the United States' filing of a substantial assistance motion with the Court.

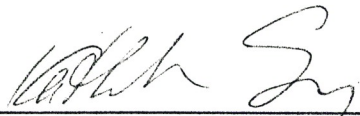
16. The Defendant acknowledges and understands that if the Court imposes a sentence with which the defendant is dissatisfied, the defendant will not be permitted to withdraw his guilty plea for that reason.

The defendant acknowledges that no threats, promises, predictions or representations have been made or agreements reached, other than those set forth in paragraphs 1 through 16 in this document, to induce defendant to plead guilty. Furthermore, this Amended Plea Agreement does not reflect any substantive modifications made after defendant's guilty plea on June 26, 1992. This document's sole purpose is to properly reflect the original intent and agreement of the parties: that the sentencing exposure of the defendant, before any U.S.S.G. § 5K1.1, p.s., adjustments, begin at no higher than the statutorily-required, 30-year penalty resulting from a plea to Count 5.

Respectfully submitted,

DEBORAH J. DANIELS
UNITED STATES ATTORNEY

DATED: Oct 1, 1992



Kathleen M. Sweeney
Assistant United States Attorney

DATED: Oct. 1, 1992

Victoria Ursulskis
Victoria Ursulskis
Assistant United States Attorney

DATED: Oct. 5, 1992

Charles Sweeney Jr.
Charles Edward Sweeney, Jr.
Defendant

DATED: October 5 1992

Michael McDaniel
Michael McDaniel
Attorney for Defendant

DATED: Oct. 5, 1992

Edwin Sedwick
Edwin Sedwick
Attorney for Defendant

I have read or have had read to me the above Amended Plea Agreement. It correctly reflects all plea negotiations and the plea agreement in this case. I am entering a plea of guilty to Count 5 of the Indictment freely, voluntarily and on my own accord. I am entering this plea of guilty because I am guilty of the crime stated in Count 5 of the Indictment.

DATED: Oct. 5, 1992

Charles Sweeney
Charles Edward Sweeney, Jr.
Defendant